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STATE OF WISCONSIN

BEFORE THE CHIROPRACTIC EXAMINING BOARD

IN THE MATTER OF

DISCIPLINARY PROCEEDINGS

AGAINST

DENNIS P. HOGAN, D.C.

RESPONDENT.

FINAL DECISION AND ORDER

LS-9909171-CHI

PARTIES

The parties to this proceeding for the purposes of sec. 227.53, Stats., are:

*Dennis P. Hogan, D.C.
518 Congress Street
Green Bay, WI 54301*

*Department of Regulation & Licensing
Division of Enforcement
1400 E. Washington Ave., P.O. Box 8935
Madison, WI 53708*

*State of Wisconsin Chiropractic Examining Board
1400 E. Washington Ave., P.O. Box 8935
Madison, WI 53708*

PROCEDURAL HISTORY

A. On September 17, 1999, a Complaint was filed in this matter along with a Notice of Hearing for October 29, 1999.

B. On October 25, 1999, the administrative law judge (ALJ) received a Stipulation executed by Dr. Hogan and by the attorney for the Division of Enforcement, James E. Polewski. That Stipulation consisted of Findings of Fact and Conclusions of Law, but did not include any stipulated discipline.

C. A prehearing conference was conducted by telephone on October 26, 1999. Participating were Dr. Hogan, Mr. Polewski and the ALJ. At that time, the parties notified the ALJ that they had previously submitted a full stipulation to the Chiropractic Examining Board, but that the board had rejected the stipulation, apparently based upon the board's dissatisfaction with the stipulated discipline. The parties did not notify the ALJ of the stipulated discipline, but did indicate that the stipulation called for assessing costs against the respondent in the amount of \$500, which was represented as being quite close to the actual costs incurred by the Division of Enforcement in the matter. The parties further notified the ALJ that they had reached an agreement to submit the findings of fact and conclusions of law from the original stipulation to the ALJ, and to permit the ALJ, based upon those findings and conclusions, to recommend an appropriate disciplinary order for the board's consideration. The parties declined to argue discipline or make recommendations in that regard, and instead left the fashioning of an appropriate disciplinary order to the discretion of the ALJ.

D. The ALJ filed his Proposed Decision on November 1, 1999.

E. The Chiropractic Examining Board considered the proposed decision on December 16, 1999. The board accepted the findings of fact and conclusions of law contained in the proposed decision. The board rejected the order for discipline as proposed by the ALJ and adopted a different order.

FINDINGS OF FACT

1. Dennis P. Hogan, D.C., was born on October 1, 1954, and is licensed to practice chiropractic in the state of Wisconsin pursuant to license number 3520, first granted on May 26, 1998. Dr. Hogan was licensed in Wisconsin by endorsement of his chiropractic credentials from the Commonwealth of Virginia.

2. On November 29, 1995, in the Criminal Division of the Richmond District General Court, Richmond, Virginia, Dr. Hogan was convicted of the crime of solicitation of sodomy for a single offense which occurred in a parking lot of a city park at 6:40 p.m. on Saturday, October 7, 1995.

3. The application for a license to practice chiropractic in Wisconsin which Dr. Hogan completed on June 16, 1997, includes the question "Have you ever been convicted of a felony or misdemeanor?" Dr. Hogan checked the box for "No" in response to that question, and swore that the information in the application was strictly true in every respect.

4. At an interview with an investigator for the Chiropractic Examining Board on April 30, 1999, Dr. Hogan at first denied that he had ever been convicted of a crime, but acknowledged the Richmond conviction referenced in paragraph 3, above, when confronted with the investigator's knowledge of the event. Dr. Hogan admitted then that he had intentionally misrepresented the fact on his license application because of embarrassment.

5. On June 6, 1997, the United States Department of Health and Human Services excluded Dr. Hogan from participation in Medicare, Medicaid, and State health programs as a result of Dr. Hogan's failure to repay his Health Education Assistance Loan or enter into an agreement to repay the debt.

6. Dr. Hogan denies that he received any notice from the United States Department of Health and Human Services that he was excluded from participation in Medicare, Medicaid or State health programs. Dr. Hogan admits that he received a copy of an Order from the Commonwealth of Virginia in fall, 1998, reciting the fact of his exclusion from participation in Medicare, Medicaid, or State health programs. Dr. Hogan states that he read only the first paragraph captioned **ORDER** and did not read the second paragraph on the same page captioned **FINDINGS OF FACT** that recited his failure to pay his Health Education Assistance Loan and his resulting exclusion from participation in Medicare, Medicaid, and State health programs.

7. On January 19, 1999, Dr. Hogan signed an application for a Medicare provider number, which would permit him to submit claims for payment by Medicare.

8. The application Dr. Hogan signed specifically inquired if Dr. Hogan had ever been excluded from Medicare, Medicaid or any other federal agency or program. Dr. Hogan's response indicated that he had not been excluded from Medicare, Medicaid or any other federal agency or program.

9. Dr. Hogan states that the application he signed had been filled out by his employer for him, and that he did not read the application before he signed it.

10. There is no record that Dr. Hogan has ever filed a claim for payment from Medicare.

11. Dr. Hogan has rectified the circumstance leading to his exclusion from the Medicare program. The exclusion was stayed, and Dr. Hogan is eligible to participate in the Medicare program on that basis.

CONCLUSIONS OF LAW

I. The Chiropractic Examining Board has jurisdiction in this matter pursuant to ch. 446, Stats.

II. The circumstances of Dr. Hogan's November 29, 1995, conviction in Richmond, Virginia do not substantially relate to the practice of chiropractic because of the time and location of the offense.

III. Dr. Hogan's conduct in falsifying his application for licensure in Wisconsin constitutes a violation of s. Chir 6.02(18), Wis. Admin. Code.

IV. Dr. Hogan's conduct in signing a misrepresentation of his eligibility to participate in Medicare when he had good reason to know of the truth of the matter constitutes unprofessional conduct pursuant to s. Chir 6.02, Wis. Admin. Code.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of Dennis P. Hogan, D.C., be, and hereby is, suspended for a

period of six months, commencing on the tenth calendar day after this Final Decision and Order is signed on behalf of the board.

IT IS FURTHER ORDERED that pursuant to sec. 440.23, Stats., the costs of this proceeding in the amount of \$600 are assessed against the respondent.

EXPLANATION OF VARIANCE

The Chiropractic Examining Board accepts the findings of fact and conclusions of law as presented by the parties and adopted by the administrative law judge (ALJ). The ALJ’s recommendation of a 45-day suspension is rejected as unduly minimizing the seriousness of Dr. Hogan’s behavior in providing false information to the board on his application for licensure in Wisconsin. The board imposes a six-month suspension in order to protect the public by emphasizing the importance to the profession of accurate, truthful, and complete information.

Dated this 20th day of December, 1999.

Dale Strama, Acting Chair
Chiropractic Examining Board